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INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
CASE #IV2133892

SUBJECT: **McCORMICK, MATTHEW [redacted]**
Custody Operations Division
North County Correctional Facility

INCIDENT DATE: **October 26, 2004**

DAY/TIME: **Tuesday/1210 Hours**

LOCATION: **Henry Mayo Newhall Memorial Hospital**
23845 McBean Parkway, Valencia 91355

SYNOPSIS:

On October 26, 2004, at approximately 1210 hours Suspect [redacted] escaped from the Henry Mayo Newhall Memorial Hospital while being guarded by Deputy Matthew McCormick.

Deputy McCormick said he allowed Suspect [redacted] to use the restroom sometime around 1200 hours. He said Suspect [redacted] entered the restroom with the use of a walker (assisted walking device). When Suspect [redacted] exited the restroom, Deputy McCormick said that Suspect [redacted] pushed the walker towards him and he ([redacted] ran out the front door of the hospital room [redacted] Deputy McCormick said the walker pinned him in between the bed and the restroom wall which delayed his pursuit of Suspect [redacted] Deputy McCormick said once he got free he initiated a foot pursuit of Suspect [redacted] but was not able to locate him.

Deputy McCormick then telephoned the North County Correctional Facility and advised Sergeant Theresa Dawson of the escape. Sergeant Dawson contacted the Santa Clarita Sheriff's Station and a response was initiated. Suspect [redacted] was later arrested by Santa Clarita Station personnel, after he ([redacted] assaulted [redacted] (Refer to Miscellaneous Documents, Santa Clarita Station Supplemental Reports).

Suspect [redacted] is currently in custody and housed at the Men's Central Jail. His next court date is April 12, 2005, at the Newhall Municipal Court, and bail is set at $150,000.00.

SWORN EMPLOYEE WITNESSES:

WALDMAN, Michael, Sergeant [redacted]
Custody Operations Division
North County Correctional Facility
[redacted]

JOHNSON, Michael, Bonus-1 Deputy [redacted]
Custody Operations Division
North County Correctional Facility
[redacted]

NEWMAN, Douglas, Deputy [redacted]
Custody Operations Division
North County Correctional Facility

DRAKE, Thomas, Deputy [redacted]
Field Operations Region I
Santa Clarita Station

SWAN, James, Deputy [redacted]
Custody Operations Division
North County Correctional Facility
[redacted]

FAIRBANKS, Michael, Deputy [redacted]
Custody Operations Division
North County Correctional Facility
[redacted]

DAWSON, Theresa, Sergeant [redacted]
Custody Operations Division
North County Correctional Facility
[redacted]

NON-EMPLOYEE WITNESSES:

[redacted] FW/Adult
Registered Nurse
23548 McBean Parkway, Valencia CA, 91355
Henry Mayo Newhall Memorial Hospital
(661)253-8028

[redacted] FW/Adult
Registered Nurse
23548 McBean Parkway, Valencia CA, 91355
Henry Mayo Newhall Memorial Hospital
(661)253-8028

[redacted] FW/Adult
Registered Nurse
23548 McBean Parkway, Valencia CA, 91355
Henry Mayo Newhall Memorial Hospital
(661)253-8028

[redacted] FH/Adult
Certified Nurses Assistant
23548 McBean Parkway, Valencia CA, 91355
Henry Mayo Newhall Memorial Hospital
(661)253-8028

[redacted] FW/Adult
Licensed Vocational Nurse
23548 McBean Parkway, Valencia CA, 91355
Henry Mayo Newhall Memorial Hospital
(661)253-8028

[redacted] FB/Adult
Registered Nurse
23548 McBean Parkway, Valencia CA, 91355
Healthcare Resource Network
(818)881-6600

[redacted] MW/Adult
Security Officer
23548 McBean Parkway, Valencia CA, 91355

Henry Mayo Newhall Memorial Hospital

[redacted] MW/Adult
Network Management
23548 McBean Parkway, Valencia CA, 91355
Henry Mayo Newhall Memorial Hospital
(661)253-8375

SUSPECT/INMATE:

[redacted] MH/19 DOB:09/14/85
4252 106th Street
Inglewood, CA 90304

Suspect [redacted] has an extensive criminal history (Refer to CCHRS Report, Miscellaneous Documents). He has been booked on [redacted], has [redacted] as a juvenile and [redacted] as an adult. [redacted] arrests include [redacted],

[redacted]

At the time of Suspect [redacted] escape, he was in custody for [redacted] Incident to Suspect [redacted] escape, he was arrested and booked on charges of, [redacted], [redacted] and [redacted]

SUSPECT/INMATE INTERVIEW:

[redacted]

On December 08, 2004, at approximately 1035 hours, I (Sgt. Sutton) interviewed Suspect [redacted] at Men's Central Jail. The following is a summary of that interview and the interview conducted by Detective Patrick O'Neill (#[redacted]) of Santa Clarita Station (Refer to Miscellaneous Documents, Supplemental Reports).

Suspect [redacted] was being monitored by hospital staff at Henry Mayo Newhall Memorial Hospital for injuries that he sustained from an attack by other inmates while housed at the North County Correctional Facility. On the morning of October 26, 2004, Suspect [redacted] was assigned to hospital room #[redacted] and deputy personnel provided security. Suspect [redacted] said that Deputy McCormick relieved Deputy Swan on this morning (10/26/04, at [redacted].

Suspect [redacted] said that when Deputy McCormick made his relief he was handcuffed to the bed. He said that Deputy McCormick uncuffed him from the bed for approximately half of his (McCormick's) shift. Suspect [redacted] believed that Deputy McCormick trusted him and did not pay close attention to him [redacted] He said that the other deputies that were assigned to watch him would occasionally un-cuff him and allow him to rest and move around. Suspect [redacted] said the other deputies would pay close attention to him [redacted] while he was uncuffed. He [redacted] could not recall what time it was when he was allowed to use the restroom. Suspec [redacted] said he got out of bed on the left side of the bed and entered the restroom (Refer to Photographs, Exhibit #G).

> ***IAB Note: Deputy McCormick said that he let Suspect [redacted] use the restroom at approximately 1200 hours (Refer to Subject Verbatim Transcript).***

Suspect [redacted] said that Deputy McCormick was seated in a chair located near the left side of the bed. He said Deputy McCormick had moved the television monitor directly in front of him (Refer to Photographs, Exhibit #E). Suspect [redacted] said when he got out of bed to use the restroom he noticed that Deputy McCormick was not paying attention to him and the television monitor was blocking his view. He said Deputy McCormick never got out of his chair. Suspect [redacted] said that when the other deputies let him use the restroom they would stand near the door of the restroom.

> ***IAB Note: The television monitor that Deputy McCormick was using is a combination television and touch screen computer with internet capabilities.***

Suspect [redacted] said he was in the restroom for several minutes. While he was in the restroom, Suspect [redacted] said he heard voices from his deceased friend, telling him that the deputy (McCormick) was not paying attention and he [redacted] should escape. Suspect [redacted] also heard the voices telling him that his friend "had his back."

> ***IAB Note: During Suspect [redacted] interview with Detective O'Neill he [redacted] said he heard voices all day telling him to escape (Refer to Supplemental Report by Deputy O'Niell).***

When Suspect [redacted] exited the restroom he saw that the television monitor was still blocking Deputy McCormick's view and he (McCormick) was still seated, not paying attention. He said the television monitor was "right in front of his face." Suspect [redacted] said it was at this point he decided to make an attempt to escape. He said he walked to the left side of his bed and collected some personal papers and pictures. Suspect [redacted] said he was careful not to move his walker because it was noisy and he was afraid if he moved it the noise would alert Deputy McCormick. He said the walker was located on the right side of his bed. He said before he exited the door of his room he looked back to see if Deputy McCormick had noticed him.

Suspect [redacted] said he walked out of the room and left the hospital through a rear emergency exit door (Refer to Photographs, Exhibit #J). Suspect [redacted] said Deputy McCormick did not see him nor did Deputy McCormick say anything to him.

> ***IAB Note: I (Sgt. Sutton) drew a diagram of the hospital room and indicated the movements of Suspect [redacted] based on his memory (Refer to Room Diagram, Exhibit #C).***

Suspect [redacted] said he had not planned to escape prior to Deputy McCormick arriving at the hospital. Suspect [redacted] said he escaped because the voices he heard told him it was okay to. Suspect [redacted] said none of the hospital staff said anything to him before he fled through the emergency exit. Suspect [redacted] added that he never used the walker to go to the restroom nor did he push the walker into Deputy McCormick in order to affect his escape from the hospital. Suspect [redacted] said he does not need to use his walker when he is medicated. He said that prior to his escape hospital staff had medicated him and he felt no pain from walking or running.

<u>SWORN EMPLOYEE WITNESS INTERVIEWS:</u>

Waldman, Michael

On December 16, 2004, at approximately 1115 hours, I (Sgt. Sutton) conducted a telephonic interview with Sergeant Waldman. The following is a summary of that interview.

Sergeant Waldman is assigned to the North County Correctional Facility and oversees the Scheduling and Training Unit. Sergeant Waldman said on October 26, 2004, he immediately responded to Henry Mayo Newhall Memorial Hospital after learning that Suspect [redacted] had escaped. He added that Sergeant Dawson of NCCF was on the telephone with Santa Clarita Station and she assisted them with coordinating a response to the escape.

Sergeant Waldman said when he arrived at the hospital Deputy McCormick was not there. Sergeant Waldman then responded to Santa Clarita Station's command post, where he found Deputy McCormick. He spoke with Deputy McCormick to ascertain the facts surrounding Suspect [redacted] escape. Sergeant Waldman learned that Deputy McCormick did not have a Sheriff's radio with him. Deputy McCormick did not check a radio out prior to leaving NCCF and responding to his (McCormick's) assignment at the hospital. Sergeant Waldman also observed that Deputy McCormick did not have a "Sam Browne" on and was armed with his Beretta which was secreted in a "pancake" holster.

Sergeant Waldman said Deputy McCormick had trouble telling him what had occurred. He said it took eight to ten minutes for Deputy McCormick to tell him (Waldman) about the incident. Sergeant Waldman said that Deputy McCormick could not speak because he was upset and was "completely vapor locked." Deputy McCormick told Sergeant Waldman that Suspect [redacted] had used the restroom while he (McCormick) was guarding him. When Suspect [redacted] exited the restroom he ([redacted] pushed his walker into the area where Deputy McCormick was standing. Suspect [redacted] then ran from the room and into the hallway of the hospital.

Sergeant Waldman said that Deputy McCormick appeared "very scared" about the incident. Sergeant Waldman said that while he was talking to Deputy McCormick they both heard that Santa Clarita Station was in foot pursuit of Suspect [redacted] Sergeant Waldman said he told Deputy McCormick to remain with him and not to get involved. Deputy McCormick did not comply with Sergeant Waldman's request and he (McCormick) climbed over a wall and into a backyard where he believed the Santa Clarita deputies were. Sergeant Waldman said he could understand why Deputy McCormick wanted to be involved in capturing Suspect [redacted] but felt he was not properly equipped or trained to handle the situation.

Sergeant Waldman directed Deputy McCormick to write some notes on the escape incident so he could refer to them later. Sergeant Waldman said he read the notes after Deputy McCormick wrote them. He said these notes have since been lost or discarded. Sergeant Waldman said the notes read essentially the same as the above description Deputy McCormick gave on how Suspect [redacted] escaped.

Several hours later, and after Suspect [redacted] was captured, Sergeant Waldman directed Deputy McCormick to return to the hospital and recover the walker that Suspect [redacted] pushed into him (McCormick) and book it as evidence.

Sergeant Waldman went back to the hospital and attempted to obtain a hospital release for Suspect [redacted] so he could be transported to LCMC. He said while he (Waldman) was standing at the nurse's station, one of the nurses (unknown) approached him and asked of she could speak with him. This nurse told Sergeant Waldman that Deputy McCormick was often standing in the hallway, not guarding Suspect [redacted] She also said that Suspect [redacted] was often uncuffed during Deputy McCormick's shift.

Sergeant Waldman said this nurse also told him that Deputy McCormick was seen manipulating the TV monitor in the hospital room after Suspect [redacted] had escaped. Another one of the nurses (unknown) told Sergeant Waldman that she asked Deputy McCormick if that was his inmate who just went out the emergency exit and Deputy McCormick replied something to the effect of "I don't think so." Minutes later Deputy McCormick realized that Suspect [redacted] had escaped. The nurse said Deputy McCormick checked the emergency door for Suspect [redacted]

The nurse said hospital security contacted Deputy McCormick when they both learned that Suspect [redacted] was seen running across McBean Parkway. The nurse told Sergeant Waldman that both Deputy McCormick and the security officer ran in the direction Suspect [redacted] was last seen. Sergeant Waldman could not recall the names of the nurses he spoke to.

Sergeant Waldman obtained a list of nursing staff that were on-duty at the time of Suspect [redacted] escape from the hospital. These names were given to Lieutenant Porlier who conducted the inquiry into this matter (Refer to Inquiry, Exhibit #B).

Sergeant Waldman said that NCCF Deputy Doug Newman was also at the Santa Clarita Station command post, dressed in civilian attire. He said that Deputy Newman was apparently on the telephone with NCCF personnel when he (Newman) learned of the escape. Deputy Newman responded to the area of the escape in his personal vehicle and met with Deputy McCormick (Refer to Newman Interview). Sergeant Waldman said he directed Deputy Newman to leave the location and thanked him for assisting Deputy McCormick.

Sergeant Waldman said he directed Deputy Michael Johnson to assist Deputy McCormick with writing the escape report (Refer to Johnson Interview).

Johnson, Michael

On December 13, 2004, at approximately 1155 hours, I (Sgt. Sutton) conducted a telephonic interview with Deputy Johnson. The following is a summary of that interview.

Deputy Johnson is assigned to the Training Unit at the North County Correctional Facility and Sergeant Michael Waldman is his supervisor. Deputy Johnson said on October 26, 2004, Sergeant Waldman directed him to assist Deputy McCormick in preparing the escape report involving Suspect [redacted] (Refer to Escape Report, Exhibit #A).

Deputy Johnson said he sat with Deputy McCormick at NCCF alone and discussed what had transpired regarding Suspect [redacted] escape from Henry Mayo Newhall Memorial Hospital. Deputy McCormick told Deputy Johnson that he was seated in the hospital room with Suspect [redacted] and they had both been talking and watching television. Deputy McCormick was sitting in the chair next to Suspect [redacted] bed (Refer to Photographs, Exhibit #E).

Deputy McCormick told Deputy Johnson that about half way through his shift a nurse entered the room and spoke to him. The nurse told Deputy McCormick that Suspect [redacted] was going to be interviewed by hospital staff, then released from the hospital. Deputy McCormick told Deputy Johnson that shortly after the nurse left Suspect [redacted] requested to use the restroom.

Deputy McCormick told Deputy Johnson that he uncuffed Suspect [redacted] from the bed and allowed him to get up to use the restroom. Suspect [redacted] then got out of bed and used his walker to assist him to the restroom. Deputy McCormick said he was standing next to the restroom door near the foot of Suspect [redacted] bed when he [redacted] exited the restroom (Refer to Drawing Exhibit #A, Page #6 & Photographs, Exhibit #G).

Deputy McCormick told Deputy Johnson when Suspect [redacted] exited the restroom he [redacted] looked at the floor, stopped and paused, then pushed the walker into his (McCormick's) legs. This startled Deputy McCormick, caused him to take a step back and Suspect [redacted] ran out of the room.

> ***IAB Note: Deputy Johnson had Deputy McCormick draw a diagram of the hospital room (Refer to Escape Report, Exhibit #A, Page #6).***

Deputy McCormick told Deputy Johnson that he (McCormick) ran around the walker and the bed (Refer to Photograph, Exhibit #G). Deputy McCormick ran to the hallway and did not see Suspect [redacted] Deputy McCormick said a nurse approached him and asked why the emergency exit door alarm was sounding. Deputy Johnson said that Deputy McCormick told her he did not know why the alarm was sounding. The nurse then asked Deputy McCormick where Suspect [redacted] was and he (McCormick) told her he did not know.

Deputy McCormick then told Deputy Johnson that he thought Suspect [redacted] may have exited the hospital through the emergency exit. Deputy McCormick looked through the emergency exit door and did not see Suspect [redacted] (Refer to Photographs, Exhibit #J).

Deputy Johnson said that Deputy McCormick never mentioned whether or not he yelled at Suspect [redacted] to stop as he was running out of the room.

Deputy McCormick then told Deputy Johnson that a nurse called hospital security. Deputy McCormick said he told a security officer that Suspect [redacted] had escaped. The security officer searched the hospital facility for Suspect [redacted] Deputy Johnson said that Deputy McCormick telephone the NCCF Watch Sergeant (Sergeant Dawson) and advised her of the escape. Sergeant Dawson then coordinated a response with Santa Clarita Station (Refer to Witness Interview, Sergeant Dawson).

Deputy McCormick then told Deputy Johnson that he (McCormick) began a search of the hospital area for Suspect [redacted] Sometime during his search, Deputy McCormick received information that Suspect [redacted] was seen in a nearby residential area. Deputy McCormick said he walked to the residential area and contacted deputies from Santa Clarita Station.

The escape report indicates a charge of Escape by Force (4532(b) PC). Deputy Johnson said this charge reflects the force that Deputy McCormick alleges Suspect [redacted] used to escape. That force was Suspect [redacted] pushing his walker into the legs of Deputy McCormick.

Deputy Johnson said the escape report only documents Suspect [redacted] escape from the hospital, anything that transpired after the escape was handled and reported by Santa Clarita Station deputies (Refer to Miscellaneous Documents, Supplemental Reports). Deputy Johnson said he directed Deputy McCormick to document only the facts surrounding Suspect [redacted] escape from the hospital in his (McCormick's) escape report (Refer to Escape Report, Exhibit #A).

Newman, Douglas

On February 08, 2005, at approximately 1840 hours, I (Sgt. Sutton) interviewed Deputy Newman at the North County Correctional Facility (NCCF). The following is a summary of that interview.

Deputy Newman said on October 26, 2004, at approximately 1200 hours he was having a telephone conversation with Deputy Gutierrez at NCCF, who was working Central Control. During the phone conversation, Deputy Gutierrez told Deputy Newman that an inmate had just escaped from Henry Mayo Hospital. Deputy Newman said he lives near the hospital, so he contacted the Watch Sergeant at NCCF and asked if he should respond to the escape. The Watch Sergeant told Deputy Newman that it was okay for him to respond from home and assist in the search for the escaped inmate [redacted]

Deputy Newman drove his vehicle towards Henry Mayo Hospital, north bound on Orchard Village Road. He saw Deputy McCormick looking over some residential walls, searching for Inmate [redacted] Deputy Newman said approximately 4 minutes transpired between the time he hung the phone up with Deputy Gutierrez until he saw Deputy McCormick. Deputy McCormick got into Deputy Newman's vehicle and they attempted to locate Inmate [redacted] Deputy Newman said they drove around for about 3 or 4 minutes. He said that Deputy McCormick appeared to be "out of breath" and was "somewhat upset."

Deputy Newman saw Santa Clarita Station patrol cars parked in the area. Both he and Deputy McCormick contacted the deputies and asked how they could help search for Inmate [redacted] Deputy Newman said one of the deputies directed both of them to an area containment position that was within eyesight of the command post. Deputy Newman could not recall the names of any of the Santa Clarita Station deputies.

Deputy Newman said that Deputy McCormick told him how the escape of Inmate [redacted] occurred. Deputy McCormick said the escape happened quick. Deputy McCormick told Deputy Newman that Inmate [redacted] came out of the restroom, threw a walker at him and "bolted" out the door. He (McCormick) said that he did not know which way the inmate went, until he heard an alarmed door sounding.

Deputy Newman asked Deputy McCormick where he was standing, that would allow Inmate [redacted] to get around him. Deputy McCormick said he was standing near the window and the bed area (Refer to Diagram of Room, Exhibit #A, Page #6 & Photographs, Exhibit #G). Deputy McCormick did not tell Deputy Newman whether or not he yelled commands at Inmate [redacted] to stop.

Deputy Newman said that Deputy McCormick did not complain of any injury as a result of the escape incident. Deputy McCormick did not mention if he was using the computer at Henry Mayo Hospital prior to or during the escape.

While at the containment position, Deputy Newman said that Sergeant Waldman of NCCF arrived. He said that Sergeant Waldman contacted him and told him that he could leave. Deputy Newman said he was working the [redacted]

Deputy Newman said he has provided security for inmates at Henry Mayo Hospital in the past. He said when an inmate uses the restroom he would stand in front of the restroom door, placing himself between the restroom and the front door. Deputy Newman said this tactical position would block the exit and force the inmate in his direction should the inmate attempt to escape.

Drake, Thomas

On January 05, 2005 at approximately 0930 hours, I (Sgt. Sutton) conducted a telephonic interview with Deputy Drake. The following is a summary of that interview.

Deputy Drake said on October 26, 2004 he responded to the Santa Clarita Station command post to assist in the search for an escaped suspect (Suspect [redacted] Once at the command post Deputy Drake contacted Deputy McCormick so he could gather additional suspect information. Deputy Drake said that Deputy McCormick was "flustered and nervous" as he (Drake) tried to obtain a better description of Suspect [redacted] and details about the escape.

Deputy Drake said that Deputy McCormick could only provide "sketchy" information about Suspect [redacted] Deputy Drake felt that Deputy McCormick was being somewhat evasive about the information that he (Drake) was requesting regarding Suspect [redacted] escape. Deputy McCormick told Deputy Drake that he (McCormick) had let Suspect [redacted] use the restroom at the hospital. Deputy McCormick then told Deputy Drake that he (McCormick) lost sight of Suspect [redacted] Deputy Drake said that Deputy McCormick could not articulate how Suspect [redacted] escaped, nor did he tell Deputy Drake that Suspect [redacted] pushed a walker into him (McCormick). Deputy Drake said that Deputy McCormick told him Suspect [redacted] used a walker to assist him to the restroom.

Deputy Drake said he had to repeat his questions to Deputy McCormick two or three times before he would get a response. Deputy Drake said that Deputy McCormick could not recall what Suspect [redacted] was wearing when he escaped. Deputy McCormick could not remember if the inmate had handcuffs on one wrist or if the handcuffs used to secure him were left attached to the hospital bed.

Deputy Drake said there was a second off-duty deputy standing with Deputy McCormick, who was dressed in civilian clothes wearing a Department jacket. Deputy Drake believes this deputy identified himself as a "jail deputy" (Deputy Newman). Deputy Drake said it appeared that Deputy McCormick and the jail deputy knew each other. Deputy Drake saw Sergeant Waldman arrive at the command post. He then directed Deputy McCormick to contact Sergeant Waldman to provide him additional information regarding Suspect [redacted] escape.

Swan, James

On January 18, 2005, at approximately 0520 hours, I (Sgt. Sutton) interviewed Deputy Swan at the North County Correctional Facility (NCCF). The following is a summary of that interview.

Deputy Swan said he was assigned to provide security for Suspect [redacted] at Henry Mayo Newhall Memorial Hospital. He said he was assigned the Early Morning shift, from [redacted] (10/25/04) to [redacted] (10/26/04). Deputy Swan said this was the EM shift prior to Suspect [redacted] escape on Day shift.

Deputy Swan said prior to going to the hospital for his assigned shift, he attempted to retrieve a radio from the Front Desk, but they were all checked out. Deputy Swan added that he does carry a cell phone which he would use as a form of communication if needed. He said he was dressed in a Class-B uniform with a full Sam Browne, baton and protective vest.

Deputy Swan said he made his relief sometime a little after [redacted] When he arrived at the hospital Deputy Swan handcuffed Suspect [redacted] right wrist to the hospital bed rail. He then sat in the chair located next to Suspect [redacted] bed (Refer to Photograph, Exhibit #E). Deputy Swan said he engaged Suspect [redacted] in conversation, asking how he [redacted] felt and other casual conversation.

Deputy Swan said that at one time during his shift, Suspect [redacted] requested to use the restroom. Deputy Swan said he uncuffed Suspect [redacted] and stood between the front door of the room and the restroom door (Refer to Drawing, Exhibit #C). He then gave Suspect [redacted] commands to get up and use the restroom. Deputy Swan believes that Suspect [redacted] got out of bed on the left side of the bed, because it was closer to the restroom door. Deputy Swan added that Suspect [redacted] did not use a walker to assist him and he [redacted] walked to the restroom under his own power. Deputy Swan does not recall seeing a walker in the room.

IAB Note: During Suspect [redacted] interview, he said that when Deputy McCormick allowed him to use the restroom he got out of bed on the left side of the bed (Refer to Suspect [redacted] Interview, Page #4). This was the same side of the bed he got out of during Deputy Swan's shift. Suspect [redacted] also said that he did not use his walker to when he went to the restroom during Deputy McCormick's shift (Refer to Suspect [redacted] Interview, Page #5).

He then told Suspect [redacted] not to close the restroom door entirely. Deputy Swan said he listened to Suspect [redacted] activities while he was in the restroom. Deputy Swan said he checked the restroom for any possible escape routes prior to allowing Suspect [redacted] to use the restroom.

As soon as Suspect [redacted] exited the restroom, Deputy Swan ordered Suspect [redacted] to lay on the bed. Once on the bed, Deputy Swan handcuffed Suspect [redacted] right wrist to the bed rail. Deputy Swan believes that was the only time that Suspect [redacted] got out of bed during his shift.

Deputy Swan said that there appeared to be nothing abnormal about Suspect [redacted] behavior. Suspect [redacted] did not tell Deputy Swan that he hears voices.

Deputy Swan said that Deputy McCormick relieved him at approximately [redacted] He said Deputy McCormick was dressed in uniform, believes he wore a Sam Browne and was not certain if he wore a protective vest. Deputy Swan said he passed-on basic information about Suspect [redacted] to Deputy McCormick. He said that Deputy McCormick appeared to be awake and did not appear to be tired. Deputy Swan said he removed his handcuffs from Suspect [redacted] and believes that Deputy McCormick then handcuffed Suspect [redacted] to the bed.

Deputy Swan said that he has not spoken to Deputy McCormick since that day (10/26/04).

Fairbanks, Michael

On January 18, 2005, at approximately 0600 hours, I (Sgt. Sutton) interviewed Deputy Fairbanks at the North County Correctional Facility (NCCF). The following is a summary of that interview.

Deputy Fairbanks said he provided security for Suspect [redacted] at Henry Mayo Newhall Memorial Hospital on two or three different occasions. Deputy Fairbanks said that he was assigned to the hospital on the day that Suspect [redacted] was moved into a different room [redacted] Deputy Fairbanks said that Suspect [redacted] had "severe head trauma" and he [redacted] had to use a walker to assist him with walking to the re-assigned room. Deputy Fairbanks said it appeared that Suspect [redacted] had difficulty walking. Deputy Fairbanks does not remember which room number Suspect [redacted] was moved to, but recalls it was near an exit. He believes Suspect [redacted] was assigned to the bed [redacted] closest to the restroom (Refer to Drawing, Exhibit #C).

Deputy Fairbanks handcuffed Suspect [redacted] left wrist to the bed rail once he [redacted] got into bed. Deputy Fairbanks said he sat in the chair that was located between the exterior window and the left side of Suspect [redacted] bed (Refer to Photograph, Exhibit #E).

Deputy Fairbanks said that Suspect [redacted] used the restroom while they were in room [redacted] He said that he would un-cuff Suspect [redacted] open the restroom door and let Suspect [redacted] into the restroom. Deputy Fairbanks said that Suspect [redacted] used the restroom several times during his shift. He said that Suspect [redacted] would always exit his bed on the left side because the right side of the bed usually had the bed rail in the upright position. He added that the left side of the bed was closest to the restroom and that Suspect [redacted] used his walker to assist him.

When Suspect [redacted] used the restroom, Deputy Fairbanks said he would step back and stand in front of the restroom door. He said that he would position himself between the restroom door and the front door of the room. Deputy Fairbanks said this position would enable him to block the front door should Suspect [redacted] attempt to escape.

Deputy Fairbanks said Suspect [redacted] spoke well and did not appear to be mentally ill, nor did Suspect [redacted] say that he hears voices. Suspect [redacted] did tell Deputy Fairbanks that he had once escaped from Juvenile Hall.

Deputy Fairbanks said that he attended the Sheriff's Academy with Deputy McCormick and that they have socialized together outside of work once or twice in the last 2 ½ years. Deputy Fairbanks said that he spoke to Deputy McCormick sometime after Suspect [redacted] escape. Deputy McCormick told Deputy Fairbanks how Suspect [redacted] was able to escape. He (McCormick) said that Suspect [redacted] exited the restroom and "pitched" his walker to the side and "bolted" out of the room. The walker blocked Deputy McCormick in between the left side of the bed and the area where the TV monitor was (Refer to Drawing, Exhibit #A, Page #6). Deputy Fairbanks added that the space is very narrow between the left side of the bed and the restroom wall.

Deputy Fairbanks said he did not believe that Suspect [redacted] was capable of running because of his medical condition. He assumed that Suspect [redacted] may have been feigning his condition and waiting for the best opportunity to attempt his escape. Deputy Fairbanks added that had Suspect [redacted] attempted to escape on his shift, he would have immediately initiated a foot pursuit and alerted hospital staff to call Santa Clarita Station. Deputy Fairbanks believes that Suspect [redacted] knew of the exit that he used because they passed it when they changed his ([redacted]) room.

Deputy Fairbanks said he did not have a radio during the times he provide security for Suspect [redacted] because NCCF was short on radios. He said he would use his cell phone for communications if needed.

Deputy Fairbanks said when he provides security at Henry Mayo Hospital, he uses both the television and internet services that are provided in the hospital rooms. Deputy Fairbanks said when using the internet he would position the screen in front of him, still maintaining visual contact of the inmate. He said when he uses the internet the inmates are always handcuffed.

Dawson, Theresa

On January 18, 2005, at approximately 0650 hours, I (Sgt. Sutton) interviewed Sergeant Dawson at the North County Correctional Facility (NCCF). The following is a summary of that interview.

Sergeant Dawson said she was working as the Watch Sergeant at NCCF the day that Suspect [redacted] escaped from Henry Mayo Hospital. She said that she received a telephone call from Deputy McCormick who advised her that Suspect [redacted] had escaped from the hospital. Deputy McCormick told her that Suspect [redacted] "just escaped." Sergeant Dawson said she replied, "Dude are you fucking with me." She said she had replied in this manner because the Watch Deputy was laughing just prior to the call and she first believed that Deputy McCormick's phone call was a joke.

Sergeant Dawson said that when Deputy McCormick was first speaking he appeared unexcited and puzzled. Once he advised her of the escape he began talking "very rapidly." Sergeant Dawson asked Deputy McCormick if he "locked down the hospital," and he (McCormick) said that Suspect [redacted] had already left the hospital. She asked Deputy McCormick if he knew where Suspect [redacted] went and he said, "No," but added that a security guard told him the Suspect was seen going over a wall into a residential area. Sergeant Dawson asked Deputy McCormick if he called "911" and he said, "No." Sergeant Dawson said that Deputy McCormick's voice sounded as if he was overwhelmed and panicked.

Sergeant Dawson told Deputy McCormick to hang-up and she would call Santa Clarita Station and advise of the escape. Sergeant Dawson said she spoke with Sergeant Dolson at Santa Clarita Station. She advised him of the incident and Suspect [redacted] booking number so they could obtain his information from "LACRIS" (Los Angeles County Regional Identification System). She also requested that Santa Clarita deputies set up a containment around the hospital (Refer to Exhibit #L, Incident History Report, Santa Clarita Station, Tag#189).

Sergeant Dawson said approximately 10 minutes later she received a second phone call from Deputy McCormick. She said that during this phone call Deputy McCormick told her he uncuffed Suspect [redacted] to allow him to use the restroom. He then told her when Suspect [redacted] exited the restroom, he ([redacted] "charged" at him (McCormick) with a walker. Deputy McCormick said he was not able to get around the walker before Suspect [redacted] ran out of the room door and out of sight.

Deputy McCormick said when he went into the hallway he did not see Suspect [redacted] He then told Sergeant Dawson that a few minutes later he heard an alarm sounding and a nurse asked him, "Where's your inmate?" At this point Deputy McCormick said he realized that Suspect [redacted] had escaped through the emergency exit door. Deputy McCormick told Sergeant Dawson that he then exited the door to look for Suspect [redacted]

Sergeant Dawson said that Sergeant Waldman contacted her and she provided him with the information that Deputy McCormick had given her. Sergeant Waldman then responded to the location to contact Deputy McCormick (Refer to Sergeant Waldman's Interview). During the second telephone call Sergeant Dawson told Deputy McCormick to wait at the hospital.

Sergeant Dawson believes that approximately 2 hours had transpired from the time she received Deputy McCormick first telephone call to when she received notification that Santa Clarita deputies captured Suspect [redacted]

NON-EMPLOYEE WITNESS INTERVIEWS:

[redacted]

On December 16, 2004, at approximately 1600 hours, I (Sgt. Sutton) interviewed Ms. [redacted] at the Henry Mayo Newhall Memorial Hospital. Ms. [redacted] is employed by the hospital as a Registered Nurse. The following is a summary of that interview and the inquiry conducted by Lieutenant Porlier (Refer to Exhibit #B).

Ms. [redacted] said on October 26, 2004, at approximately 1210 hours, she responded to an exit door that was sounding an alarm. On her way to that door, she saw Deputy McCormick standing in the hallway near the room where Suspect [redacted] was housed. She said Suspect [redacted] room was two doors away from the hallway where the alarmed exit is located (Refer to Photographs, Exhibits #H & #J).

> ***IAB Note: On March 22, 2005, I (Sgt. Sutton) spoke to [redacted] at Henry Mayo Hospital. Ms. [redacted] provided me copies of handwritten statements that were submitted by the nursing staff that were present when Suspect [redacted] escaped.***
>
> ***Ms. [redacted] wrote in her hand written statement "1212, 10/26/04, Heard door alarm sound" (Refer to Exhibit #K, Hand Written Statements, Nurse [redacted]***
>
> ***On January 11, 2004, at approximately 1005 I contacted [redacted] the Security Director for Henry Mayo Hospital. He told me that alarm records are normally stored in the computer system. However, Mr. [redacted] said the records for 10/26/04 were lost during a power failure sometime after Suspect [redacted] escape.***

Ms. [redacted] said she asked Deputy McCormick if everything was okay and he did not respond. Ms. [redacted] then proceeded to check the alarmed door (Refer to Photograph, Exhibit #J). After checking the door Ms. [redacted] returned to the Nurse's Station where she overheard Nurse [redacted] say that she believed Suspect [redacted] had escaped. Ms. [redacted] then went to Suspect [redacted] room [redacted] to verify what Nurse [redacted] had said.

Ms. [redacted] said when she entered the room she saw that Deputy McCormick was in the process of either standing or sitting in the chair located near the room's window (Refer to Photograph, Exhibit #E). She said once she walked into the room Deputy McCormick stood completely up. Ms. [redacted] told Deputy McCormick, "Did you know that was your guy?" referring to Suspect [redacted] She said Deputy McCormick replied something to the effect, "That wasn't the guy for certain." Ms. [redacted] then said, "Let me check the restroom" and Deputy McCormick said, "He's not in there." She opened the restroom door and did not see Suspect [redacted]

> ***IAB Note: During Deputy McCormick's interview he said that a nurse never contacted him in the hospital room [redacted] and asked the whereabouts of Suspect [redacted] (Refer to Subject Interview, Verbatim Transcript, Page #15, Line #11).***

Ms. [redacted] said that Deputy McCormick did not appear concerned that Suspect [redacted] may have escaped. She said that Deputy McCormick did not ask her to alert security nor did she see him initiate any type of action with regards to the escape of Suspect [redacted] Ms. [redacted] said that Deputy McCormick's behavior was odd as she was expecting a more concerned response from him. Ms. [redacted] said she exited the room and went to the Nurse's Station to advise the "Charge Nurse" (Ms. [redacted] that something was wrong, concerning the escape of Suspect [redacted] As she was at the Nurse's Station she saw hospital staff running out of the alarmed door, apparently running after Suspect [redacted] She heard one of the staff say, "He's running across the parking lot." Ms. [redacted] did not see Deputy McCormick running after or responding to the possible sighting of Suspect [redacted]

Ms. [redacted] said five (5) to ten (10) minutes later she saw Deputy McCormick walking in the hallway with a hospital security officer.

Nurse [redacted] said approximately two (2) minutes or so transpired between the time she had heard and checked the alarm door then made contact with Deputy McCormick in Suspect [redacted] room.

Ms. [redacted] walked me through a room that had the exact floor plan as room [redacted] I (Sgt. Sutton) was unable to photograph or re-enact what Ms. [redacted] saw in room [redacted] due to patients being assigned there. Ms. [redacted] said when she entered the room to ascertain if Suspect [redacted] had escaped, she saw his [redacted]) walker at the foot of his bed. She said she had to walk around it to get to the restroom door (Refer to Photograph, Exhibit #G).

[redacted]

On December 16, 2004, at approximately 1505 hours, I (Sgt. Sutton) interviewed Ms. [redacted] at the Henry Mayo Newhall Memorial Hospital. Ms. [redacted] is employed by the hospital as a Registered Nurse. The following is a summary of that interview and the inquiry conducted by Lieutenant Porlier (Refer to Exhibit #B).

On October 26, 2004, Ms. [redacted] was the "Charge Nurse" on the floor where Suspect [redacted] was assigned. Ms [redacted] said she went to the room [redacted] where Suspect [redacted] was assigned sometime between 11:00 AM and 11:30 AM. When she entered the room she saw that Suspect [redacted] was seated up in bed and Deputy McCormick was seated in a chair near the window of the room (Refer to Photograph, Exhibit #E). Ms. [redacted] said she spoke with Suspect [redacted] who inquired about going on his walk. Ms. [redacted] said that Suspect [redacted] was supposed to occasionally get out of bed and walk as part of the rehabilitation of his injuries. Ms. [redacted] advised Suspect [redacted] that his assigned nurse would return in 5 to 10 minutes to assist him. Ms [redacted] said she had just returned to work after several days off and had not seen Suspect [redacted] perform his walking rehabilitation before that.

Ms. [redacted] believes that the television monitor was positioned towards Deputy McCormick when she entered the room. She could not specifically recall if Deputy McCormick was watching TV or using the computer. Ms. [redacted] said that Deputy McCormick was listening to her conversation with Suspect [redacted] but he (McCormick) did not speak to her or ask her any questions.

Ms. [redacted] said when she entered the room and spoke to Suspect [redacted] she noticed a walker on the right side of the bed, opposite Deputy McCormick (Refer to Photographs, Exhibits #G). Ms. [redacted] said she returned to the Nurse's Station (Refer to Photograph, Exhibit #I) and advised Suspect [redacted] assigned nurse that he was requesting to go on his walk.

Ms. [redacted] said that sometime around noon (1200 hours) she was standing at or near the Nurse's Station when she heard the emergency exit (Refer to Photographs, Exhibit #J) alarm sounding. Ms. [redacted] said she walked to the emergency exit and did not see anything that may have set the alarm off. Ms. [redacted] said when she went to the exit door, she did not recall seeing Deputy McCormick standing in the hallway. She said that the hallway where Suspect [redacted] room was located leads to the emergency exit (Refer to Photographs, Exhibit #H).

Ms. [redacted] recalled seeing Deputy McCormick standing in the hallway sometime later, after the emergency exit alarm had sounded. She said when she saw Deputy McCormick it did not appear that he was searching for anyone, nor did his body gestures suggest that he was preparing to initiate a foot pursuit of the suspect.

Ms. [redacted] said she returned to the Nurse's Station at some point to ascertain why hospital security did not initiate a [redacted] for the alarmed door. She said this code is initiated over the PA system to alert hospital staff and security when specific alarms sound. While at the Nurses Station she overheard another nurse say that Suspect [redacted] had escaped. Ms. [redacted] said she telephoned 911, but she was told by the Sheriff's Department they had already been called so she hung up.

Ms. [redacted] said that at least five (5) minutes had transpired from the time she heard the alarm to the time she was told that police had been called. She said that at some point Deputy McCormick left the hospital to search for Suspect [redacted] outside.

[redacted]

On March 10, 2005, at approximately 1530 hours, I (Sgt. Sutton) conducted a telephonic interview with Ms. [redacted] Ms. [redacted] is employed by Henry Mayo Newhall Memorial Hospital as a Registered Nurse (RN). The following is a summary of that interview and the inquiry conducted by Lieutenant Porlier (Refer to Exhibit #B).

Ms. [redacted] said on October 26, 2004, she was providing care for the patients (Suspect [redacted] and Mr. [redacted]) assigned to room [redacted] Ms. [redacted] began her shift at 0700 hours and recalls checking on the patients when she began her shift.

> ***IAB Note: As indicated in Lieutenant Porlier's inquiry, Mr. [redacted] is somewhat senile and could not provide any useful information (Refer to Exhibit #B, Inquiry).***

She said when she entered room [redacted] she saw a deputy sheriff (Dep. McCormick) seated in the room, next to Suspect [redacted] Ms. [redacted] said that Deputy McCormick was either watching television or using the computer when she entered the room. She also believes at sometime that Deputy McCormick went to use the restroom, because she did not see him in the room.

Ms. [redacted] said that sometime later, she was tending to a patient in room [redacted] when she heard the stairwell alarm sounding. Ms. [redacted] said she asked another nurse why the alarm was sounding and the nurse told her that someone had just escaped. Ms. [redacted] said she went to Suspect [redacted] room and saw Deputy McCormick standing in the doorway of the room [redacted] She also saw that Suspect [redacted] was no longer in the room.

> ***IAB Note: IAB Note: On March 22, 2005, I (Sgt. Sutton) spoke to [redacted] Risk Management at Henry Mayo Hospital. Ms. [redacted] provided me copies of handwritten statements that were submitted by the nursing staff that were present when Suspect [redacted] escaped.***
>
> ***Ms. [redacted] wrote in her hand written statement that around 1210 hours she was attending to another patient when she heard the alarm sounding (Refer to Exhibit #K, Hand Written Statements, Nurse [redacted]***

During Deputy McCormick's interview he said that a nurse never contacted him in the hospital room [redacted] and asked the whereabouts of Suspect [redacted] (Refer to Subject Interview, Verbatim Transcript, Page #15, Line #11).

She asked Deputy McCormick where Suspect [redacted] was and he replied something to the effect of , "He's gone" or "He escaped."

Nurse [redacted] then heard from another nurse that Suspect [redacted] was seen running through the parking lot of the hospital. At some point after the alarm had sounded she remembers seeing Deputy McCormick looking out the alarmed door window (Refer to Photograph, Exhibit #J). She added that Deputy McCormick was passive and appeared to be in shock, possibly overcome by the circumstances

[redacted]

On January 20, 2005, at approximately 1325 hours, I (Sgt. Sutton) conducted a telephonic interview with Ms. [redacted] Ms [redacted] is employed by Henry Mayo Newhall Memorial Hospital as a Certified Nurse's Assistant (CNA). The following is a summary of that interview and the inquiry conducted by Lieutenant Porlier (Refer to Exhibit #B).

On October 26, 2004, Ms. [redacted] said she was assigned to room [redacted] and Suspect [redacted] was her patient. She said that she would occasionally enter the room and check on Suspect [redacted] She entered the room in the morning (approximately 0700 hours) and saw Deputy McCormick seated in the chair located on the left side of Suspect [redacted] bed, watching the TV monitor. Ms. [redacted] saw Deputy McCormick viewing the monitor screen on at least two different times during the morning. She said the monitor screen was "pulled down in front of him." She does not believe the screen would have blocked his view to the front door of the room.

Ms. [redacted] said she was not present when the alarmed door first sounded near Suspect [redacted] room. She said that while the alarm was sounding she walked down the hallway and entered Suspect [redacted] room. When she entered the room she saw Deputy McCormick pacing back and forth in the middle of the room. Ms. [redacted] then asked Deputy McCormick where Suspect [redacted] was. Deputy McCormick replied, "I don't know. I let him go to the bathroom." She said that Deputy McCormick did not ask her to get help or to help look for Suspect [redacted] but he had a look of concern on his face.

IAB Note: During Deputy McCormick's interview he said that a nurse never contacted him in the hospital room [redacted] and asked the whereabouts of Suspect [redacted] (Refer to Subject Interview, Verbatim Transcript, Page #15, Line #11).

Ms. [redacted] said she exited the room and went to the Nurse's Station. She said that she advised other nursing staff that Suspect [redacted] was not in his room and that Deputy McCormick was just "walking back and forth."

Ms. [redacted] said approximately 25 minutes later she saw Deputy McCormick, who wanted to retrieve Suspect [redacted] walker. She said that someone (unknown) told her that Suspect [redacted] had "threatened" Deputy McCormick with the walker. Sometime during the morning Ms. [redacted] said she recalls a walker being on the right side of Suspect [redacted] bed.

Ms. [redacted] said the walker that was in Suspect [redacted] room had been removed by a hospital worker prior to Deputy McCormick returning to retrieve it. She was not certain whether or not Deputy McCormick retrieved the actual walker that was in the room.

[redacted]

Lieutenant Porlier interviewed Ms. [redacted] sometime after the above incident. Ms. [redacted] is employed by the Henry Mayo Newhall Memorial Hospital as a Licensed Vocational Nurse (LVN). The following is a summary of that interview (Refer to Inquiry, Exhibit #B).

Ms. [redacted] said she was outside the hospital near the patient drop off & pick up area when she saw a patient (Suspect [redacted] wearing a gown, running across the parking lot. She said the patient stumbled near the grassy area, then ran across Mc Bean Parkway, then ran out of her sight, east on Orchard Village Drive. She said the patient had no difficulty running. Ms. [redacted] then went to the front desk and notified security of the escaped patient. She did not know at this time that the patient was an escaping inmate.

[redacted]

Lieutenant Porlier interviewed Ms. [redacted] sometime after the above incident. Ms. [redacted] is employed by the Henry Mayo Newhall Memorial Hospital as a Registered Nurse (RN). The following is a summary of that interview (Refer to Inquiry, Exhibit #B).

Ms. [redacted] said she was standing near the Nurse's Station when she heard the emergency exit door alarm sound. She said this alarm activation is a common occurrence. Ms. [redacted] said she walked towards the alarmed stairwell door and saw who she thought was a security guard looking through the window on the door. She first thought the security guard was "stupid" because he made no attempt to reset the alarm. Ms. [redacted] then asked if he was going to reset the alarm and he said, "I'm a Sheriff (Deputy McCormick). I lost my custody. Have you seen him?"

> ***IAB Note: IAB Note: On March 22, 2005, I (Sgt. Sutton) spoke to [redacted] at Henry Mayo Hospital. Ms. [redacted] provided me copies of handwritten statements that were submitted by the nursing staff that were present when Suspect [redacted] escaped.***

Ms. [redacted] wrote in her hand written statement that the alarm was sounding for over 5 minutes when she asked if security had been called. She said approximately 2 minutes later she saw what she thought was a security guard at the alarmed door. She then realized the guard was Deputy McCormick (Refer to Exhibit #K, Hand Written Statements, Nurse [redacted]

Ms. [redacted] said that Deputy McCormick walked back towards room [redacted]. She then said a "[redacted]" was announced, notifying security of the alarmed door. Ms. Hazard said security arrived and they (security) went outside the hospital with Deputy McCormick, in search of Suspect [redacted] She described Deputy McCormick as "looking lost or in shock."

Ms. [redacted] said that she checked room #[redacted] sometime during the morning. She said when she entered the room she only saw two patients and no deputy sheriff. She was not aware of Suspect [redacted] being an inmate because she does not remember seeing a deputy sheriff in the room.

[redacted]

On January 21, 2005, at approximately 1520 hours, I (Sgt. Sutton) conducted a telephonic interview with Mr. [redacted] Mr. [redacted] was working as a security officer at Henry Mayo Newhall Memorial Hospital at the time of Suspect [redacted] escape. The following is a summary of that interview.

Mr. [redacted] said sometime during his shift he responded to a "[redacted]" alarm activation in the main building, near Suspect [redacted] room (#[redacted] He said a "[redacted] was then broadcast. He said a "[redacted]" means a "combative person." Mr. [redacted] said he responded to the area of the alarm and contacted nursing staff. The nursing staff told him that Suspect [redacted] had escaped through the "baby door," an alarmed emergency exit (Refer to Photographs, Exhibit #J).

Mr. [redacted] said he exited the door in an effort to locate Suspect [redacted] He said he briefly spoke to Deputy McCormick, outside the hospital about the incident. Deputy McCormick told him that Suspect [redacted] was using the restroom, then threw a walker at him and ran out the door. Deputy McCormick then ran after Suspect [redacted]

Mr. [redacted] said that witnesses told him where Suspect [redacted] had climbed a wall into a residential area near Orchard Village Drive and Mc Beam Parkway. Mr. [redacted] said he is not allowed to leave the hospital property and did not search the residential area for Suspect [redacted] Mr. [redacted] said that Deputy McCormick "called for back-up on his cell phone." Mr. [redacted] said Deputy McCormick then re-entered the hospital.

[redacted]

On March 24, 200, at approximately 1530 hours, I (Sgt. Sutton) interviewed Mr. [redacted] at Henry Mayo Hospital. The following is a summary of that interview. The interview was tape recorded, however the tape recorder malfunctioned and the recording failed.

Mr. [redacted] is the Network Manager for Henry Mayo Hospital. He provided me with the computer log from Room [redacted] that was generated on October 26, 2004 (Refer to Exhibit #D). Mr [redacted] went over this log with me and said that the time stamps indicated on this log depict physical activities that are generated by the actual user of the computer. He said at 6:2:47 AM (0602 hours & 47 seconds) a person logged into"Yahoo.com" and at 6:2:58 AM the user then entered a "Yahoo" chat room. He said this user entered the screen name "iluv2sixy9." Mr. Brousseau said that the chat room activity went on until 06:09:57 AM, when the person using the computer exited the on-line chat room.

> ***IAB Note: On 03/23/05, I (Sgt. Sutton) spoke with Sergeant Rossanna Taylor of the Equity Unit. She told me that she had just been assigned a case involving Deputy McCormick where his personal computer screen name was identified as "iluv2sixy9" (Refer to Equity/IAB Case #IV2141259).***

Mr. [redacted] said at 06:27:32 AM normal televison function and the Henry Mayo home page was activated on the room monitor. He said this function continued until 10:50:22 AM, when a game function was selected that is stored in the system. Mr. [redacted] said activity between television viewing and game functions continued and said the user "was just poking around on the different accessories that are available on the home page." Mr. [redacted] said at 11:44:23 AM the user re-entered "Yahoo" then selected the on-line mail function by using the screen name "iluv2sixy9." He said the mail room activity continued until 11:51:42 AM. At 11:51:44 AM the user re-entered the "Yahoo" on-line chat room function using the screen name "iluv2sixy9." Mr. [redacted] said the chat room activity continued until 12:16:56 PM, when the user began to then logout of the "Yahoo" chat room. At 12:16:59 PM the user then began to logout of "Yahoo." He said at 12:17:4 PM the normal screen functions were restored by the user ("iluv2sixy9") and the Henry Mayo home page was displayed.

> ***IAB Note: Deputy McCormick specifically remembers logging out of or not being on the internet before 1200 hours (Refer to Verbatim Subject Interview, Page #36). He said when Suspect [redacted] got out of bed he (McCormick) got out of his chair and stood between the corner of the restroom wall and the left corner (foot) of [redacted] bed. Deputy McCormick also said that Suspect [redacted] spent 5 to 10 minutes in the restroom before he escaped (Refer to Verbatim Subject Interview, Pages 11 & 12).***
>
> ***The computer log (Exhibit #D) contradicts what Deputy McCormick recalls and shows that he (McCormick) is performing tasks in "Yahoo.com" from 11:44:23 AM to 12:16:59 PM, using the screen name "iluv2sixy9".***

Ms. [redacted] said she heard the alarmed exit that Suspect [redacted] fled from sound at 12:12 PM and Nurse [redacted] heard the alarm sound at 12:10 PM (Refer to Witness Interviews).

Mr. [redacted] said at 13:9:2 PM a user (unknown) attempted to enter the "Yahoo" mail function, but that function failed at 13:9:10 PM. At 13:9:42 PM a user (unknown) attempted to enter "cittywalk.com" but that function failed, possibly due to misspelling. Mr. [redacted] said at 13:9:47 PM the normal screen functions were restored and the Henry Mayo home page was displayed. The monitor was then turned off at 14:31:24 PM.

Mr. Brousseau added that other functions displayed on this log, such as "[redacted] are internal systems that continually check the Henry Mayo computer systems for viruses and perform other system checks.

SUBJECT INTERVIEW:

McCormick, Matthew

Refer to Subject Interview, Verbatim Transcript.



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



July 14, 2005

Deputy Matthew McCormick, [redacted]

Deputy McCormick:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Sheriff, Item No. 2708A, with this Department, effective at the close of business on August 4, 2005.

An investigation under File Number IAB 2133892, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/040.97, Safeguarding Persons in Custody and/or 3-01/050.10, Performance to Standards, on or about October 26, 2004, while providing security to Inmate [redacted] who was being hospitalized at a local community hospital, you failed to establish and maintain the highest standards of efficiency and were negligent in your duties, thereby allowing the suspect to escape into a residential neighborhood where he violently assaulted an elderly citizen. You subsequently demonstrated incompetence in your ability to handle the escape and/or failed to perform to the standards required of a deputy sheriff, as evidenced by, but not limited to, being described by witnesses as being "lost and/or confused" and/or failing to call 911 to notify Santa Clarita Valley Station of the escape, and/or being unable to give a clear description of the inmate due to your panicked state.

2. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.75, Failure to Make

Statements and/or Making False Statements During an Internal Investigation, on or about October 26, 2004, February 25, 2005 and May 13, 2005, you were not truthful in your written report and again during your subject interviews about your activities leading up to, and immediately following, the escape of Inmate [redacted], including but not limited to, that you had allowed the un-handcuffed inmate to use the restroom while you provided security by standing outside the restroom door, and/or that as Inmate [redacted] exited the restroom, he pushed a walker at you and then ran out of the hospital, and/or that you could not initially run after the inmate because the walker trapped you between the bed and the wall, and/or that you had given chase when you moved the walker out of the way, and/or that no nurses approached you inside the hospital room and inquired about where Inmate [redacted] was.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Sammy Jones on August 2, 2005, at 1300 hours, in his office, which is located at Twin Towers Correctional Facility, 450 Bauchet Street, Los Angeles, [redacted] If you are unable to appear at the scheduled time and wish to schedule some other time prior to August 2, 2005, for your oral response, please call Chief Jones' secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Jones' secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Jones' office by no later than August 2, 2005.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323)

890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Karyn Mannis gm

Karyn Mannis, Captain
Commander, Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

KM:lh

c: Advocacy Unit
Employee Relations Unit
Chief Sammy Jones, Correctional Services Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File #2133892)



CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

November 1, 2006

FINAL COMMISSION ACTION

Subject of Hearing: In the matter of the **discharge**, effective August 29, 2005, of **MATTHEW MC CORMICK (Case No. 05-427)**, from the position of Deputy Sheriff, Sheriff's Department.

The Civil Service Commission, at its meeting held on October 25, 2006, approved findings in the above-entitled case. The objections submitted were overruled.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure, as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Nancy Beezy Micon
Executive Officer

c: Matthew McCormick
Derald J. Brenneman
Vincent C. McGowan
Lionel Richman

ROOM 522 KENNETH HAHN HALL OF ADMINISTRATION • 500 W. TEMPLE STREET, LOS ANGELES, CA 90012 • TELEPHONE (213) 974-2411 • FAX (213) 974-2534

ORIGINAL

COUNTY OF LOS ANGELES
CIVIL SERVICE COMMISSION

In the Matter of the Appeal of

MATTHEW McCORMICK,

Appellant

v.

SHERIFF'S DEPARTMENT,

Respondent

FINDINGS OF FACT
CONCLUSIONS OF LAW
RECOMMENDATION
Case No. 05-427

HEARING OFFICER: Lionel Richman

FOR THE APPELLANT: Derald J. Brenneman

FOR RESPONDENT: Vincent C. McGowan

COUNTY OF LOS ANGELES
CIVIL SERVICE COMMISSION

In the Matter of the Appeal of

MATTHEW McCORMICK,

Appellant

v.

SHERIFF'S DEPARTMENT,

Respondent

FINDINGS OF FACT
CONCLUSIONS OF LAW
RECOMMENDATION
Case No. 05-42

INTRODUCTION

By letter of August 30, 2005, Matthew McCormick ("Appellant") a Deputy Sheriff with the Sheriff's Department ("Respondent or Department") was notified that he was discharged. Appellant petitioned the Civil Service Commission ("Commission") for a hearing. On October 19, 2005, the petition for hearing was granted.

A hearing was held before the undersigned Hearing Officer on April 11, April 17, June 2, and the record was held open until June 13 for the receipt of an exhibit. The Appellant was represented by Derald J. Brenneman and the Respondent was represented by Vincent C. McGowan. At the conclusion of the hearing the parties elected to file written briefs. The briefs have been received.

ISSUES

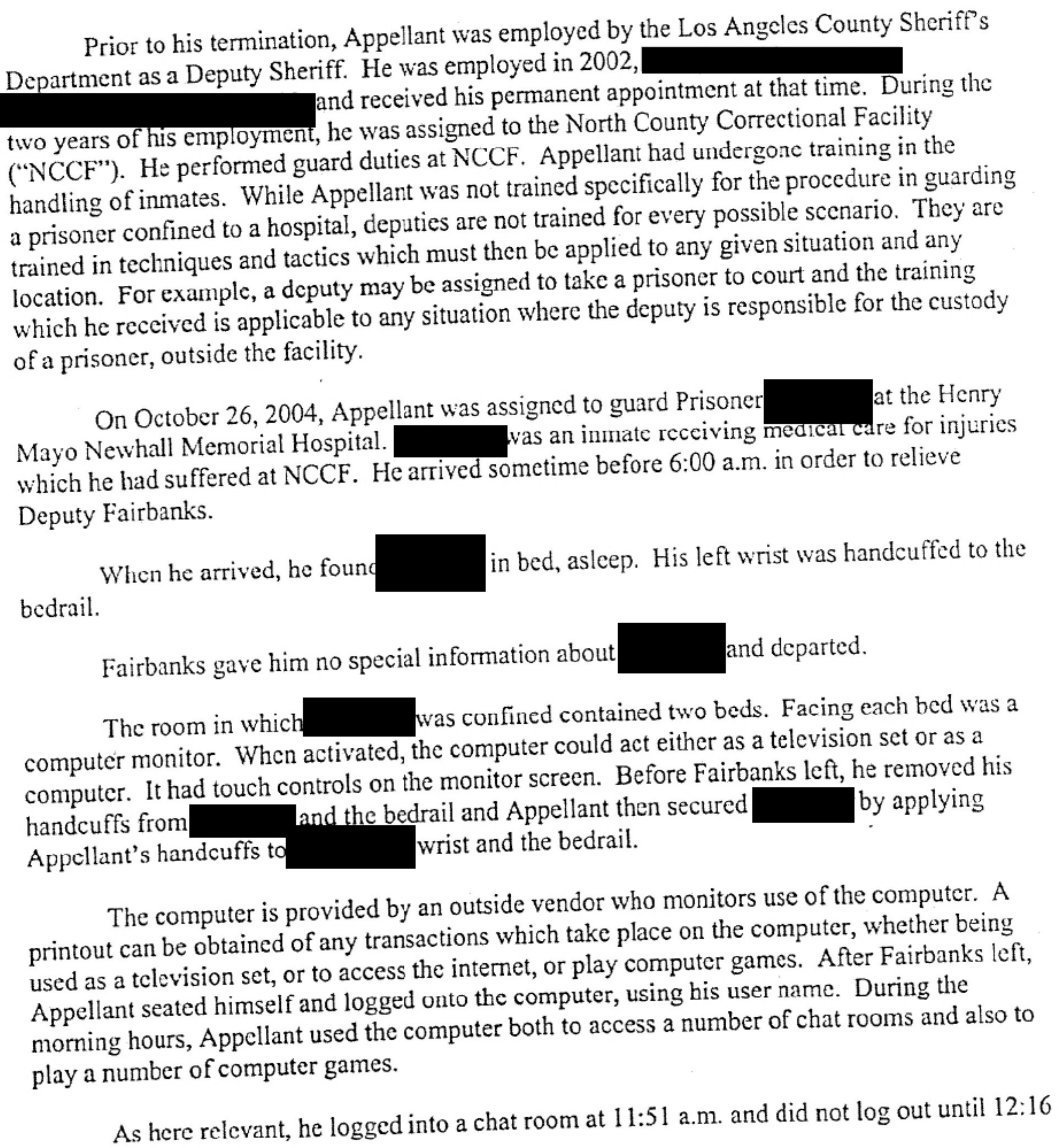
On December 13, 2005, the Commission defined the issues in the matter as:

1. Are the allegations contained in the Department's letter of August 30, 2005, true?

2. If any or all are true, is the discipline appropriate?

STATEMENT OF THE EVIDENCE

It was stipulated by the parties that the *Skelly* procedure has been invoked and exhausted and there is no issue with regard to *Skelly* rights at this time.



Prior to his termination, Appellant was employed by the Los Angeles County Sheriff's Department as a Deputy Sheriff. He was employed in 2002, [redacted] and received his permanent appointment at that time. During the two years of his employment, he was assigned to the North County Correctional Facility ("NCCF"). He performed guard duties at NCCF. Appellant had undergone training in the handling of inmates. While Appellant was not trained specifically for the procedure in guarding a prisoner confined to a hospital, deputies are not trained for every possible scenario. They are trained in techniques and tactics which must then be applied to any given situation and any location. For example, a deputy may be assigned to take a prisoner to court and the training which he received is applicable to any situation where the deputy is responsible for the custody of a prisoner, outside the facility.

On October 26, 2004, Appellant was assigned to guard Prisoner [redacted] at the Henry Mayo Newhall Memorial Hospital. [redacted] was an inmate receiving medical care for injuries which he had suffered at NCCF. He arrived sometime before 6:00 a.m. in order to relieve Deputy Fairbanks.

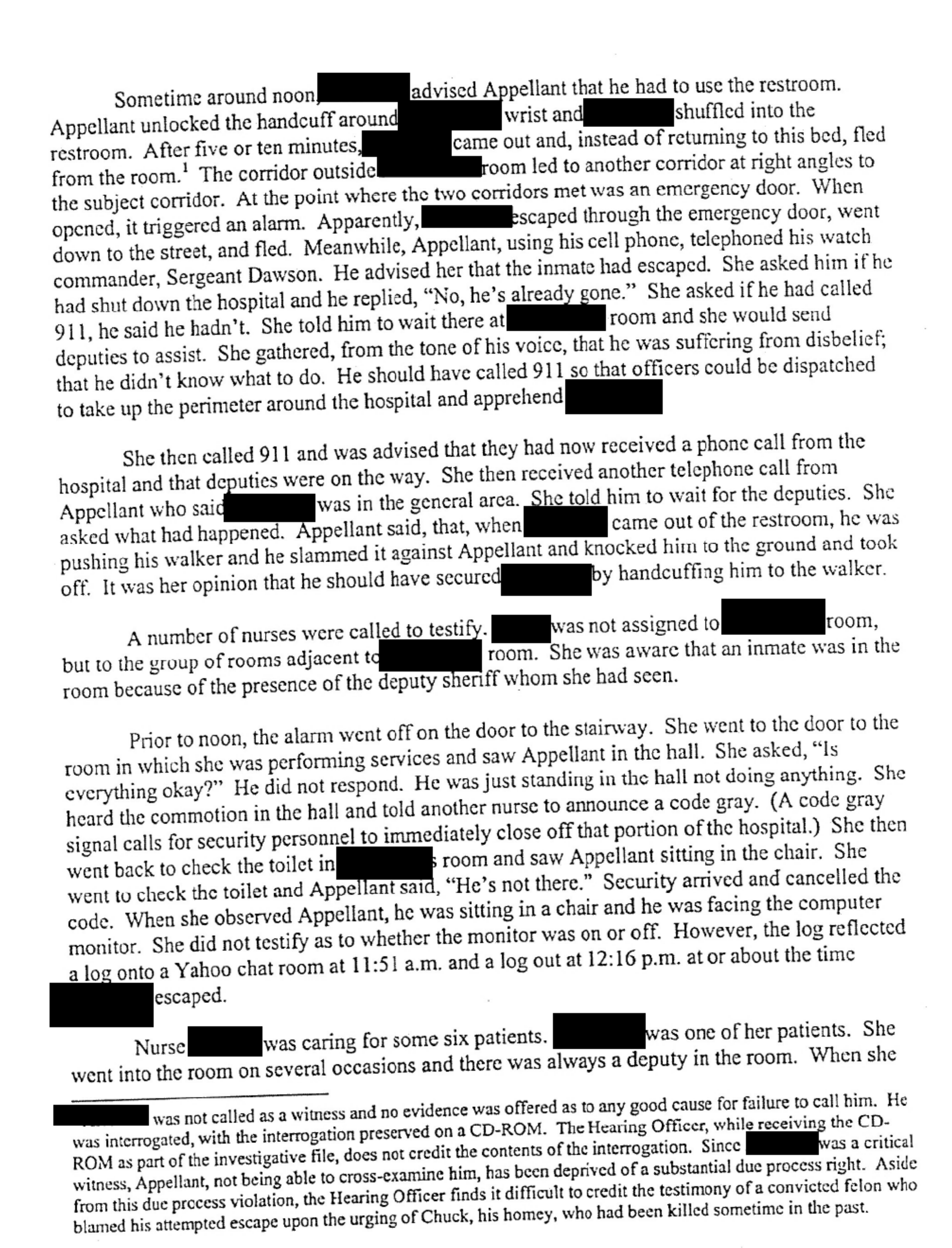
When he arrived, he found [redacted] in bed, asleep. His left wrist was handcuffed to the bedrail.

Fairbanks gave him no special information about [redacted] and departed.

The room in which [redacted] was confined contained two beds. Facing each bed was a computer monitor. When activated, the computer could act either as a television set or as a computer. It had touch controls on the monitor screen. Before Fairbanks left, he removed his handcuffs from [redacted] and the bedrail and Appellant then secured [redacted] by applying Appellant's handcuffs to [redacted] wrist and the bedrail.

The computer is provided by an outside vendor who monitors use of the computer. A printout can be obtained of any transactions which take place on the computer, whether being used as a television set, or to access the internet, or play computer games. After Fairbanks left, Appellant seated himself and logged onto the computer, using his user name. During the morning hours, Appellant used the computer both to access a number of chat rooms and also to play a number of computer games.

As here relevant, he logged into a chat room at 11:51 a.m. and did not log out until 12:16 p.m.



Sometime around noon, [redacted] advised Appellant that he had to use the restroom. Appellant unlocked the handcuff around [redacted] wrist and [redacted] shuffled into the restroom. After five or ten minutes, [redacted] came out and, instead of returning to this bed, fled from the room.[1] The corridor outside [redacted] room led to another corridor at right angles to the subject corridor. At the point where the two corridors met was an emergency door. When opened, it triggered an alarm. Apparently, [redacted] escaped through the emergency door, went down to the street, and fled. Meanwhile, Appellant, using his cell phone, telephoned his watch commander, Sergeant Dawson. He advised her that the inmate had escaped. She asked him if he had shut down the hospital and he replied, "No, he's already gone." She asked if he had called 911, he said he hadn't. She told him to wait there at [redacted] room and she would send deputies to assist. She gathered, from the tone of his voice, that he was suffering from disbelief; that he didn't know what to do. He should have called 911 so that officers could be dispatched to take up the perimeter around the hospital and apprehend [redacted]

She then called 911 and was advised that they had now received a phone call from the hospital and that deputies were on the way. She then received another telephone call from Appellant who said [redacted] was in the general area. She told him to wait for the deputies. She asked what had happened. Appellant said, that, when [redacted] came out of the restroom, he was pushing his walker and he slammed it against Appellant and knocked him to the ground and took off. It was her opinion that he should have secured [redacted] by handcuffing him to the walker.

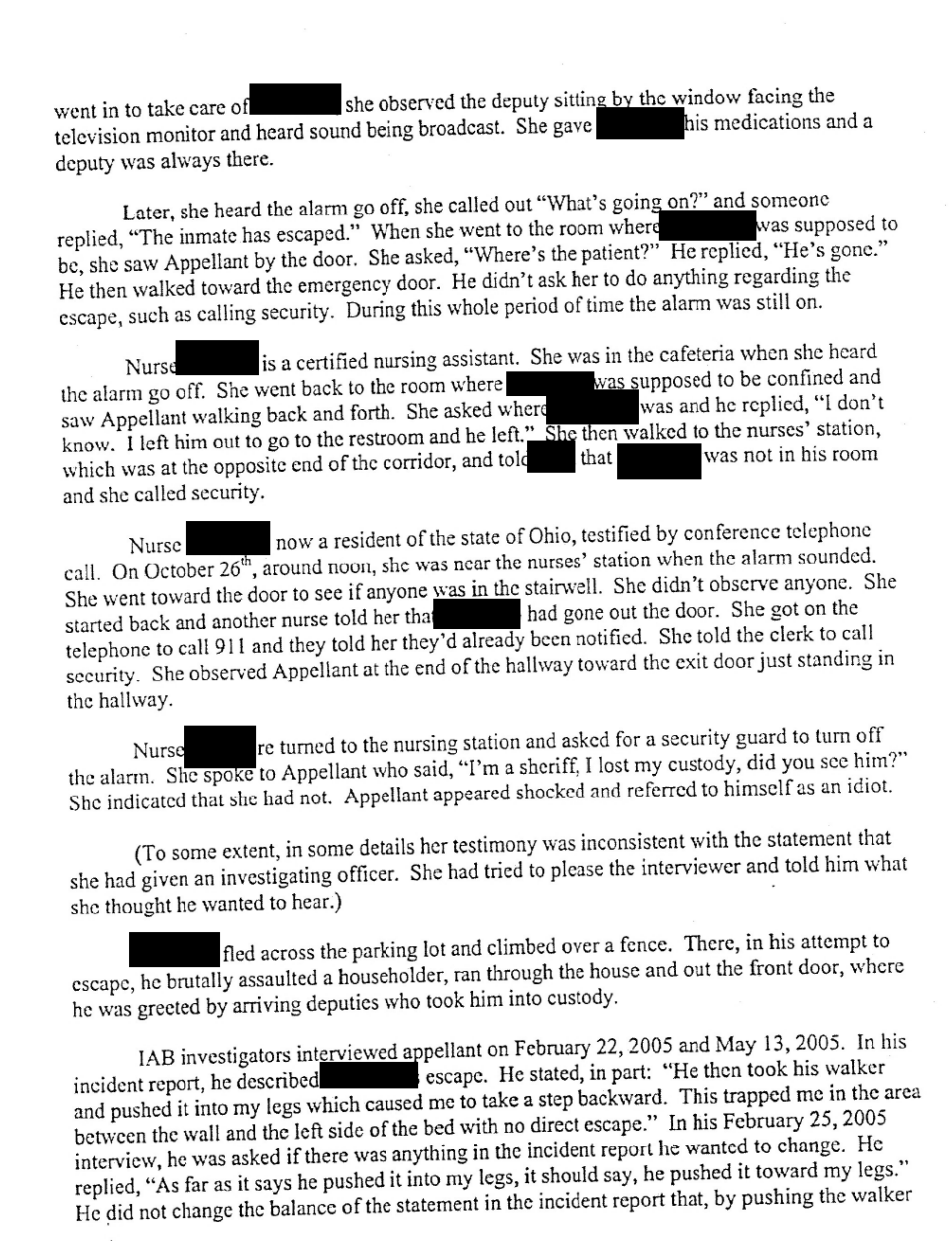
A number of nurses were called to testify. [redacted] was not assigned to [redacted] room, but to the group of rooms adjacent to [redacted] room. She was aware that an inmate was in the room because of the presence of the deputy sheriff whom she had seen.

Prior to noon, the alarm went off on the door to the stairway. She went to the door to the room in which she was performing services and saw Appellant in the hall. She asked, "Is everything okay?" He did not respond. He was just standing in the hall not doing anything. She heard the commotion in the hall and told another nurse to announce a code gray. (A code gray signal calls for security personnel to immediately close off that portion of the hospital.) She then went back to check the toilet in [redacted] room and saw Appellant sitting in the chair. She went to check the toilet and Appellant said, "He's not there." Security arrived and cancelled the code. When she observed Appellant, he was sitting in a chair and he was facing the computer monitor. She did not testify as to whether the monitor was on or off. However, the log reflected a log onto a Yahoo chat room at 11:51 a.m. and a log out at 12:16 p.m. at or about the time [redacted] escaped.

Nurse [redacted] was caring for some six patients. [redacted] was one of her patients. She went into the room on several occasions and there was always a deputy in the room. When she

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[1] [redacted] was not called as a witness and no evidence was offered as to any good cause for failure to call him. He was interrogated, with the interrogation preserved on a CD-ROM. The Hearing Officer, while receiving the CD-ROM as part of the investigative file, does not credit the contents of the interrogation. Since [redacted] was a critical witness, Appellant, not being able to cross-examine him, has been deprived of a substantial due process right. Aside from this due process violation, the Hearing Officer finds it difficult to credit the testimony of a convicted felon who blamed his attempted escape upon the urging of Chuck, his homey, who had been killed sometime in the past.



went in to take care of [redacted] she observed the deputy sitting by the window facing the television monitor and heard sound being broadcast. She gave [redacted] his medications and a deputy was always there.

Later, she heard the alarm go off, she called out "What's going on?" and someone replied, "The inmate has escaped." When she went to the room where [redacted] was supposed to be, she saw Appellant by the door. She asked, "Where's the patient?" He replied, "He's gone." He then walked toward the emergency door. He didn't ask her to do anything regarding the escape, such as calling security. During this whole period of time the alarm was still on.

Nurse [redacted] is a certified nursing assistant. She was in the cafeteria when she heard the alarm go off. She went back to the room where [redacted] was supposed to be confined and saw Appellant walking back and forth. She asked where [redacted] was and he replied, "I don't know. I left him out to go to the restroom and he left." She then walked to the nurses' station, which was at the opposite end of the corridor, and told [redacted] that [redacted] was not in his room and she called security.

Nurse [redacted] now a resident of the state of Ohio, testified by conference telephone call. On October 26th, around noon, she was near the nurses' station when the alarm sounded. She went toward the door to see if anyone was in the stairwell. She didn't observe anyone. She started back and another nurse told her that [redacted] had gone out the door. She got on the telephone to call 911 and they told her they'd already been notified. She told the clerk to call security. She observed Appellant at the end of the hallway toward the exit door just standing in the hallway.

Nurse [redacted] re turned to the nursing station and asked for a security guard to turn off the alarm. She spoke to Appellant who said, "I'm a sheriff, I lost my custody, did you see him?" She indicated that she had not. Appellant appeared shocked and referred to himself as an idiot.

(To some extent, in some details her testimony was inconsistent with the statement that she had given an investigating officer. She had tried to please the interviewer and told him what she thought he wanted to hear.)

[redacted] fled across the parking lot and climbed over a fence. There, in his attempt to escape, he brutally assaulted a householder, ran through the house and out the front door, where he was greeted by arriving deputies who took him into custody.

IAB investigators interviewed appellant on February 22, 2005 and May 13, 2005. In his incident report, he described [redacted] escape. He stated, in part: "He then took his walker and pushed it into my legs which caused me to take a step backward. This trapped me in the area between the wall and the left side of the bed with no direct escape." In his February 25, 2005 interview, he was asked if there was anything in the incident report he wanted to change. He replied, "As far as it says he pushed it into my legs, it should say, he pushed it toward my legs." He did not change the balance of the statement in the incident report that, by pushing the walker

toward him [redacted] caused him to take a step backward. In his February 25, 2005 statement, he stated that, after the alarm went off, the nurse came up and asked him why the alarm was going off and he told her, "I don't know why the alarm's going off." "She asked me where the inmate was and I said, 'That's when I realized that he had just left the door…'"

At the same interview, he repeated that he didn't know that [redacted] had left until after the alarm went off.

He denied that he was watching the computer or watching television whil[redacted] was in the restroom. Sergeant Waldman testified that he was in command of the escape situation. He heard Sergeant Dawson direct Appellant to stay at the hospital. However, when Waldman arrived at the outside area of the hospital, Appellant was there and not in the hospital as he had been directed to wait by Sergeant Dawson.

Sergeant Waldman then directed him to return to the hospital.

Instead of returning, he continued on the chase of [redacted] On February 25, 2005, he denied that Sergeant Waldman had told him to remain or to go, responding, "He didn't say either."

Deputy Fairbanks, called as a witness by Appellant, testified that the proper procedure, when the patient was being released from the handcuffs to go to the restroom, was for the deputy to take up a position in the doorway to the room. He testified further that a deputy should not use the computer screen while the prisoner was unrestrained and in the restroom. You had to assume that all prisoners are dangerous.

DISCUSSION

A. General

In analyzing the evidence which has been credited, in determining whether or not the charges contained in the letter of termination have been proved, the interview with [redacted] has been disregarded for the reasons heretofore stated. Specifically, [redacted] was not called as a witness and no evidence was offered as to any reason why [redacted] was not available to testify. Further, his statements were made in response to interrogation by IAB investigators and Appellant had no opportunity to cross-examine him. The lack of an opportunity to cross-examine is a deprivation of a fundamental right to a fair hearing.

The Department has charged Appellant with two basic violations of the Department's rules: failure to safeguard a prisoner in his custody and thus permitting his escape and making false statements during an internal investigation of the prisoner's escape.

B. The Escape

The letter of termination sets forth the basis for this element of violation of policies and procedures. It provides, as follows: "

> "That in violation of Manual Policy and Procedures sections 3-01/040.97, Safeguarding Persons in Custody and/or 3-01/050.10, Performance to Standards, on or about October 26, 2004, while providing security to inmate [redacted] who was being hospitalized at a local community hospital, you failed to establish and maintain the highest standards of efficiency and were negligent in your duties, thereby allowing the suspect to escape into a residential neighborhood where he violently assaulted an elderly citizen. You subsequently demonstrated incompetence in your ability to handle the escape and/or failed to perform to the standards required of a deputy sheriff, as evidenced by, but not limited, being described by witnesses as being 'lost and/or confused' and/or failing to call 911 to notify Santa Clarita Valley Station of the escape, and/or being unable to give a clear description of the inmate due to your panicked state."

It is unquestioned that, on October 26, 2004, Appellant was assigned the responsibility of guarding [redacted], a patient at a hospital. He relieved the deputy who had been on duty and assumed the responsibility of guarding [redacted] Apparently, after exchanging handcuffs with the deputy he was relieving, leaving [redacted] still handcuffed to the guardrail of the bed, Appellant sat down and turned on the computer. He used his password to enter a number of chat rooms and watched television. Around noon, [redacted] claimed a need to use the restroom and Appellant, who had been sitting alongside his bed watching the monitor, unlocked the handcuff and permitted [redacted] to go to the restroom.

During his orientation he had been told of the levels of danger of inmates and the procedure for maintaining custody of inmates when assigned to perform that duty outside the closed facility.

While not specifically trained on how one guards a prisoner at a hospital, he was trained on the procedure for guarding a prisoner outside the locked facility, whether it involved transporting a prisoner to or from court or any other county facility. The technique was the same whether a prisoner was being transported to court or being guarded in a hospital. At the time, [redacted] went into the restroom the appropriate position that Appellant should have assumed was blocking the door to the hospital room. The testimony of Deputy Fairbanks, called as a witness by the Appellant, verified that, when the handcuff was removed, there was a heightened risk to be guarded against. Once a prisoner is uncuffed, one had to assume that the prisoner was dangerous and probably an escape risk.

Accepting Appellant's version of the escape, he had placed himself by the restroom door and, when [redacted] came out, [redacted] pushed his walker in front of Appellant and fled. Thus, at this point, Appellant had placed himself in the worst possible position for guarding a dangerous prisoner and a probable escape risk.

Then, Appellant proceeded to compound his original error. Instead of dialing 911 to report the escape, he called his watch commander and advised her of the escape. It was she who then called 911. Meanwhile, apparently [redacted] had fled through the emergency door, since the alarm was sounding. Appellant did not pursue him, but apparently just paced back and forth in the corridor. It wasn't until one of the nurses spoke to him and discovered his prisoner had escaped that the nurse called security to try and seal off the building. Several of the nurses testified that he appeared distraught at having lost his prisoner.

Appellant contends that his description of being "panicked" fails to consider the dynamic situation in which a new deputy was immersed. One can understand Appellant being "panicked," under the circumstances, since he had permitted the escape of a dangerous felon. The outcome was almost fatal. [redacted] scaled a fence, broke into a neighboring house, and violently assaulted an elderly resident as he attempted to run through the house in order to escape.

In considering the seriousness of the offense, the Department legitimately considered the fact that the Department and the County were now exposed to substantial liability by reason of the injuries sustained by the third party. In his brief, Appellant concedes that there is little doubt that he could have performed to a higher standard on October 26, 2004. However, this does not necessitate that he be terminated, instead, he should be given an appropriate suspension based on the fact that [redacted] escaped from his custody.

It is unnecessary to extend this discussion further. It is clear that Appellant is chargeable with a failure to perform to standards by permitting [redacted] escape.

C. Falsification

The second violation charged in the letter of termination is for violation of the Manual of Policy and Procedures in making false statements. Specifically, the charged violation in the termination letter is as follows:

> "That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about October 26, 2004, February 25, 2005 and May 13, 2005, you were not truthful in your written report and again during your subject interviews about your activities leading up to, and immediately following, the escape of inmate [redacted] including but not limited to, that you had allowed the

unhandcuffed inmate to use the restroom while you provided security by standing outside the restroom door, and/or that as inmate [redacted] exited the restroom he pushed a walker at you and then ran out of the hospital, and/or that you could not initial run after the inmate because the walker trapped you between the bed and the wall, and/or that you had given chase when you moved the walker out of the way, and/or that no nurses approached you inside the hospital room and inquired about inmate [redacted] was."

With regard to the claimed lack of truthfulness in his written report and during the interviews, in the written report he claimed that, when [redacted] came out of the restroom, he slammed the walker against him knocking him to the floor and then fled. He made the same statement to Sergeant Dawson, the watch commander, that, when [redacted] came out of the restroom, [redacted] pushed the walker against him and knocked him to the ground and then took off. However, during his February 25, 2005 interview with IAB, he changed that version of the transaction and indicated that the walker had been pushed in his direction and he had taken one step back and it was while he was taking the step back that [redacted] fled. The difference between the two versions, of course, could well enter into the nature of criminal charges that could be filed against [redacted] and would thus undermine any testimony Appellant might be called upon to give in any criminal proceeding as to whether or not [redacted] had used force against him as part of his escape.

The charge also states that he made a misstatement when he stated that no nurses approached him inside the hospital room and enquired about the location of [redacted]. This is directly contradicted by Nurse [redacted] the treating nurse, that, when she went into the room after the alarm sounded, she saw the deputy in the room by the doorway and asked him where the patient was and the deputy replied, "He's gone." Nurse [redacted] likewise testified that he was in the doorway of the room. The charge also alleges that he made a misstatement when he described the walker incident. This is probably in reliance upon [redacted] statement that he had exited the restroom and had walked out the door while Appellant was watching television. Since [redacted] testimony has been excluded, this element of the violation is not proved.

D. Guidelines

The Department has adopted guidelines for discipline. As part of those guidelines, the Department acknowledges the propriety of progressive discipline as a general rule. The guidelines also attempt to give standards for supervisors in applying discipline. Under the heading "Unacceptable on the Job Behavior" the guidelines provide for suspension, reduction, or discharge for failure of an employee to perform his assigned duties so as to meet stated or implied standards of performance. Guideline 5 provides as follows:

5. Discharge
A discharge means the complete and final separation from the Department for cause. Discharges occur when prior discipline has not corrected the employee's unacceptable

behavior or performance, or in circumstances where the misconduct has rendered the individual immediately unsuitable for further employment, or where it can be reasonably anticipated and demonstrated that a lesser disciplinary action will not correct the employee's conduct. (Emphasis added)

The guidelines also deal with the determination of appropriate discipline when multi-violations occur.

> "Many times a single act of misconduct will violate several sections of the Manual. If the additional violations only amount to "lesser included offenses" they should not be used in the final disposition. However, there are cases in which multiple offenses, that are separate and distinct violations, occur within a single incident. For example, the use of unreasonable force and the failure to report the use of force are multiple violations stemming from a single incident. In this case both Manual violations should be addressed in determining the level of discipline.
>
> Multiple acts of misconduct may result in discharge even though the "standard range" of discipline for the individual acts does not include discharge. Such "multiple acts" may occur during a single continuing event, contiguous events, or may result from additional misconduct occurring prior to the imposition of discipline on another violation. In such cases, managers should consider the totality of the circumstances when making their decisions."

There then is attached to the guidelines specific items of conduct and standard discipline, as here relevant, guidelines A.7 and G.1 are applicable.

"GUIDELINES FOR DISCIPLINE

CONDUCT	STANDARD DISCIPLINE	SPECIAL NOTES
A. FRAUD, FALSIFICATION, DISHONESTY		
7. Untruthful or misleading statements during internal investigations.	15-25 Days Suspension	
G. DUTIES AND RESPONSIBILITIES		
1. Performance to Standards	---------------------------	See Notes #3 & #4

Note #4 The standard discipline for this section can range from a written reprimand to discharge, based on an evaluation of the totality of the circumstances."

With the first charge having been proved and the second charge having been proved in part, the question then becomes one of determining whether discharge was appropriate. Appellant's principal attack upon the level of discipline is that he has been the victim of disparate treatment.

E. Inconsistent Application of the Guidelines

Appellant has introduced 10 letters of suspension for similar violations to those committed by Appellant.

Three involve failure to safeguard, three involve inmate escapes, one involves an erroneous release of a prisoner, and three involve the making of false statements.

The Department argues that the factual basis for each of these letters is not before the Hearing Officer and, therefore, they are of little evidentiary value. Appellant, on the other hand, argues that there should be some consistency in punishment meted out for the same violations. A reading of the 10 letters does not serve to guide the Hearing Officer. As to seven of the letters, failure to safeguard, inmate escape, and erroneous release, the factual basis contained in the letters is dissimilar, to a large extent, from the factual basis presented in this case. Further, in the main, each letter involves one specific alleged violation and the punishment ranged from a minimum of five days up to 30 days.

As to the three letters with regard to false statements, in each case, the recipient of the letter was given a 30-day suspension. Further, in each case, the false statement was the sole basis for the discipline. This is unlike the instant case where we have two separate charges for which discipline has been imposed. It is true, as Appellant argues, that what apparently started out as a promising career has been terminated. But, the examples of other discipline do not indicate an arbitrary or capricious act by the Department in the instant case. After all, it is well established that discipline is not measured on a jeweler's scale.

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

FINDINGS OF FACT

1. Appellant, during his orientation, was told of levels of inmate risk.

2. Appellant was trained in the care and custody of inmates outside the penal facility.

3. On October 26, 2004, Appellant was assigned to provide security to inmate [redacted]

who was a patient at a hospital.

4. Appellant relieved the deputy who had been guarding the patient. The patient had been handcuffed by his left wrist to the guardrail of the bed. The relieved deputy removed his handcuffs and Appellant then applied Appellant's handcuffs to the patient and the guardrail.

5. Appellant proceeded to log onto the computer to access chat rooms, video games, and television programs.

6. At approximately noon, [redacted] requested permission to use the restroom. Appellant uncuffed him and permitted him to go to the restroom, taking up a position at the restroom door, when he should have taken up a position at the hospital room door.

7. When [redacted] came out of the restroom, he pushed his walker toward Appellant and fled.

8. Appellant did not call 911; did not call hospital security; did not pursue [redacted] Instead, he telephoned his watch commander who ascertained that he had not called 911 and made the call for him. He appeared to be confused and disoriented following [redacted] escape.

9. Appellant was ordered to stay at [redacted] room by Sergeant Dawson and disregarded this order, eventually, and went out in the direction of the fence. Sergeant Waldman told him to return and wait at the hospital room. Appellant disregarded that order. When asked for a description of [redacted] he gave a general description.

10. Appellant prepared a written incident report in which he stated that [redacted] had pushed the walker into him and knocked him down.

11. At a subsequent IAB interview, Appellant changed this aspect of his testimony and stated that [redacted] had pushed the walker in his direction and fled.

12. He testified that he had given chase when he moved the walker out of the way when, in fact, he did not leave the corridor at that time.

13. The treating nurse came to him when he was standing inside the hospital room and inquired about the location of [redacted]. Nurse [redacted] saw him in a chair within the escapee's room following [redacted] escape.

14. At the time of [redacted] escape, the computer log showed the computer was in use showing Yahoo chat rooms.

15. [redacted] in fleeing the premises, invaded an adjoining residence and assaulted an

elderly householder, causing substantial injury.

CONCLUSIONS OF LAW

1. It is true that, while providing security to inmate Samuel [redacted] at a local community hospital, Appellant failed to establish and maintain the highest standards of efficiency and was negligent in his duties, allowing [redacted] to escape into a residential neighborhood where he violently assaulted an elderly citizen.

2. It is true that he demonstrated incompetence in his ability to handle the escape and/or fail to perform to the standards required of a deputy sheriff by being "lost or confused" and/or failing to call 911 to report the escape.

3. It is not true that he was unable to give a clear description of the inmate due to his panicked state.

4. It is true that he was not truthful in his written incident report and again during his IAB interviews about his activities leading up to and immediately following the escape of Alvarado.

5. It is not true that he made an untruthful statement when he stated that he allowed [redacted] to use the restroom while he provided security by standing outside the restroom door and/or that, as inmate [redacted] exited the restroom, he pushed the walker at him.

6. It is true that he made an untruthful statement when he stated that he could not run after [redacted] because the walker trapped him between the bed and the wall.

7. It is true that he made an untruthful statement when he stated that no nurses approached him inside the hospital room and inquired about the location of inmate [redacted]

8. Except as noted in paragraphs 3 and 5 above, the allegations contained in the Department's letter of August 30, 2005 are true.

RECOMMENDATION

It is recommended that the Appeal be denied.

Dated this 18th day of July, 2006

Lionel Richman, Hearing Officer
74310



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

August 30, 2005

Deputy Matthew McCormick [redacted]

Deputy McCormick

On July 14, 2005, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2133892. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, your Division Chief determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on August 29, 2005.

An investigation under File Number IAB 2133892, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/040.97, Safeguarding Persons in Custody and/or 3-01/050.10, Performance to Standards, on or about October 26, 2004, while providing security to Inmate [redacted] who was being hospitalized at a local community hospital, you failed to establish and maintain the highest standards of efficiency and were negligent in your duties, thereby allowing the suspect to escape into a residential neighborhood where he violently assaulted an elderly citizen. You subsequently demonstrated incompetence in your ability to handle the escape and/or failed to perform to the standards required of a deputy sheriff, as evidenced by, but not limited to, being described by witnesses as being "lost and/or confused" and/or

failing to call 911 to notify Santa Clarita Valley Station of the escape, and/or being unable to give a clear description of the inmate due to your panicked state.

2. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about October 26, 2004, February 25, 2005 and May 13, 2005, you were not truthful in your written report and again during your subject interviews about your activities leading up to, and immediately following, the escape of Inmate [redacted] including but not limited to, that you had allowed the un-handcuffed inmate to use the restroom while you provided security by standing outside the restroom door, and/or that as Inmate [redacted] exited the restroom, he pushed a walker at you and then ran out of the hospital, and/or that you could not initially run after the inmate because the walker trapped you between the bed and the wall, and/or that you had given chase when you moved the walker out of the way, and/or that no nurses approached you inside the hospital room and inquired about where Inmate [redacted] was.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

PAUL K. TANAKA
ASSISTANT SHERIFF

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

PKT:WJM:KM:TM

c: Advocacy Unit
Sammy Jones, Chief, Correctional Services Division
Gregory H. Johnson, Captain, North County Correctional Facility
Internal Affairs Bureau
Office of Independent Review (OIR)
Bruce Pollack, Captain, Personnel Administration